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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 175660

PRELIMINARY RECITALS

Pursuant to a petition filed on July 18, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on September 7, 2016, by telephone.

The issue for determination is whether petitioner is eligible for payment by the MA program for Norditropin Flexpro, a growth hormone medication.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

Written Submission Only, By: [REDACTED] R.Ph., Pharmacy Practices Consultant
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a twelve-year old female resident of Oneida County.

2. On June 7, 2016, the petitioner's provider submitted a request for prior authorization to the Division of Health Care Access and Accountability ("the division") for MA coverage of Norditropin Flexpro, a growth hormone medication. (Exhibit 2).
3. The petitioner has not been diagnosed with Noonan's Syndrome, Prader Willi Syndrome, SHOX deficiency, or Turner Syndrome. (Exhibit 2: Section III.A. of PA/PDL for Growth Hormone Drugs request form).
4. Petitioner was born full-term and weighed 8 pounds, 2 ounces. (Exhibit 2; 03/22/2016 Clinic Office Note).
5. On May 10, 2016, the petitioner underwent growth hormone stimulation tests of the following growth hormones: arginine and clonidine. The arginine test result demonstrated a peak response of 4.35 ng/mL. The clonidine test result demonstrated a peak response of 11.1 ng/mL. (Exhibit 2: Section III.A. of PA/PDL for Growth Hormone Drugs request form and 05/10/2016 Clinic Office Note).
6. The prior authorization request form submitted by the petitioner's provider indicates that the requested growth hormone medication would be used to treat delayed puberty and short stature. (Exhibit 2: Section III.A. of PA/PDL for Growth Hormone Drugs request form).
7. Petitioner was diagnosed with epilepsy when she was 21 months old. (Exhibit 2: 03/22/2016 Clinic Office Note).
8. As of March 22, 2016, petitioner's weight was 75.40 pounds, which placed her in the 14th percentile of similarly aged girls. As of the same date, she measured 52.40 inches. Between approximately March 2015 – March 2016, she grew only 3.5cm. (Exhibit 2: 03/22/2016 Clinic Office Note).
9. Medical notes submitted with the prior authorization request indicate that petitioner's provider recommended growth hormone therapy because of the petitioner's "low IGF -1, low GH peak with arginine and poor height predication with last bone age." (Exhibit 2: 05/23/2016 Test Results Telephone Note)
10. The petitioner has baby teeth that have not fallen out and a slow rate of hair growth. (Testimony of petitioner's mother).
11. On June 16, 2016, the division concluded that petitioner did not satisfy the criteria required to grant coverage for growth hormone therapy for children and thus denied the request. (Exhibits 3 and 4).
12. On July 20, 2016, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the denial of the requested coverage for root canal therapy. (Exhibit 1).

DISCUSSION

The Division of Health Care Access & Accountability ("the division") may only reimburse providers for medically necessary and appropriate health care services listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code, Chapter DHS 107. The MA program will pay for certain drugs prescribed by a physician; however, MA rules and policy require MA recipients to obtain prior authorization of "drugs the department has determined entail substantial cost or utilization problems for the MA program". Wis. Admin. Code § 107.10(2)(d). The department has determined that Norditropin Flexpro, the growth hormone medication requested by petitioner, is one such drug and that it thus requires prior authorization. Wis. Adm. Code, §DHS 107.07(2)(a)1; *Medicaid Online Provider Handbook, Topic #1988; July 2015 ForwardHealth Provider Update No. 2015-27.*

For a child to receive prior authorization for growth hormone agents including Norditropin Flexpro, s/he must satisfy one of the following criteria or fall within one of the following categories: 1. have growth failure or short stature that results from one of four congenital conditions (i.e., Noonan's Syndrome; Prader Willi Syndrome; SHOX deficiency; or Turner Syndrome); 2. have growth failure or short stature associated with chronic renal insufficiency in pre-transplant members; 3. have growth failure or short stature associated with growth hormone deficiency confirmed with at least two growth hormone stimulations tests demonstrating a growth hormone peak response of less than 10 ng/ML.; 4. have been born small for gestational age, be at least 2 years of age, and have a height that remains more than two standard deviations below the mean for chronological age; 5. hypothalamic-pituitary structural lesions and evidence of panhypopituitarism. *Medicaid Online Provider Handbook, Topic #1988; July 2015 ForwardHealth Provider Update No. 2015-27.*

Here, the division's pharmacy practices consultant concluded that the documentation submitted with the prior authorization request did not demonstrate that the petitioner met any of the required criteria or that she falls within any of the categories described above. The petitioner's mother who represented petitioner at the hearing credibly testified that Turner Syndrome runs in her family but she conceded that petitioner has not received any such "official diagnosis". Similarly, she did not challenge the accuracy of the growth hormone test results. Rather, she reasonably explained that she feels the Norditropin Flexpro should be covered because both she (i.e., petitioner's mother) and petitioner's doctor believe that petitioner's short stature and slow growth rate are physically and emotionally problematic for petitioner. Petitioner's mother did not however present any additional medical evidence or written opinion from petitioner's doctor refuting the division's conclusions. Under these circumstances, there is insufficient evidence to establish that the petitioner satisfies the division's coverage criteria for the growth hormone Norditropin Flexpro.

If petitioner's mother has not already done so, she may want to consider sharing the written explanation for the division's decision to deny the prior authorization request (i.e., the letter dated August 30, 2016 which was prepared by the division's pharmacy benefits manager and previously mailed to her) with her daughter's doctor. If the petitioner's doctor believes that petitioner does, in fact, satisfy the MA coverage criteria at issue, s/he can certainly file a new prior authorization request explaining why s/he disagrees with the division's pharmacy practices consultant and can provide further supporting medical documentation.

CONCLUSIONS OF LAW

The Division of Health Care Access and Accountability correctly denied the petitioner's request for prior authorization of the growth hormone agent, Norditropin Flexpro because the prior authorization request and attached medical documentation did not demonstrate that she meets the relevant coverage criteria.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of September, 2016

\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 9, 2016.

Division of Health Care Access and Accountability